

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

IVAN AZPEITIA DIAZ, Reg. # 34118-051

PLAINTIFF

VS.

CIVIL ACTION NO. 5:08cv208-DCB-MTP

CONSTANCE REESE, et al.

DEFENDANTS

ORDER TO SHOW CAUSE

THIS MATTER is before the court *sua sponte* upon receipt of mail returned as undeliverable [16] indicating that the address provided by the plaintiff is now incorrect.¹ Defendants Constance Reese and Russell Perdue moved to dismiss or, alternatively, for summary judgment [13] on August 26, 2008. When the plaintiff had failed to respond to the motion, on October 22, 2008 the court entered an Order [15] directing the plaintiff to respond to the motion by November 7, 2008. The Order was mailed to the plaintiff at his address of record, and was returned to the court on October 31, 2008 stamped as follows: “Return to Sender,” Attempted - Not Known,” and “Unable to Forward.” According to the Bureau of Prisons website, plaintiff was released from custody on July 28, 2008. Plaintiff has not notified the court of a change of address and has not filed any pleadings or other documents since June 12, 2008 [5].

Rule 11.1 of the Uniform Local Rules for the Southern District of Mississippi provides: “Every attorney and every litigant proceeding without legal counsel has a continuing obligation to notify the clerk of court of address changes.” In addition, plaintiff has been warned on at least three occasions that failure to keep the court informed of his current address or to comply with

¹ The address provided by the plaintiff is: Yazoo City Medium, P.O. Box 5888, Yazoo City, MS 39194.

any order of this court may result in this case being dismissed [3, 6, 7].

Accordingly, it is

ORDERED:

(1) That plaintiff file a written statement with the clerk of court on or before December 5, 2008, setting forth why this case should not be dismissed for failure to prosecute or,

alternatively

(2) That plaintiff provide the clerk of court with his new address, in writing, on or before December 5, 2008.

IT IS FURTHER ORDERED that plaintiff's failure to respond may result in this civil action being dismissed without further notice.

SO ORDERED on the 18th of November, 2008.

s/ Michael T. Parker

United States Magistrate Judge